

Mitigation of Fines, Penalties, Surcharges, Assessments, and Fees
Community Restitution Eligibility
Effective 9-29-21 (Version 9-29-21)
Options for Judges

Mitigation: Reduction of any fine, penalty, surcharge, assessment, or fee

Surcharges, including the Clean Elections Surcharge, are a percentage of the base fine or penalty and are calculated on the final base fine or penalty imposed, not the base fine or penalty prior to mitigation. Therefore, as the base fine is reduced, the surcharges are reduced by operation.

If a criminal fine is mandatory, the surcharges imposed on the base fine pursuant to 12-116.01 and 12-116.02 (combined 68%) can be mitigated. However, the Clean Elections Surcharge imposed on the base fine (10%) cannot be mitigated.

Assessments are specific dollar amounts, rather than a percentage of the base fine or penalty, they may only be mitigated when permitted by statute.

The following monetary obligations may **NOT** be mitigated:

- DUI Base Fine
- Diversion Surcharge (12-114)
- \$20 Time Payment Fee (12-116A)
- Consolidated 68% Surcharges unless it's a mandatory criminal fine (12-116.01 & 12-116.02)
- \$13 Additional Assessment (12-116.04)
- \$50 Family Offenses Assessment (12-116.06)
- Dangerous Crime Against Children and Sexual Assault Assessment (12-116.07)
- \$9 Victim Assessment (12-116.08)
- \$2 Victim Assessment (12-116.09)
- \$1000 Drag Racing Assessment (12-116.11)
- Victim Restitution (13-603, 13-804)
- Clean Elections Surcharge (16-954)
- DUI Assessments (28-1389)

The following monetary obligations **MAY** be mitigated:

- Non-DUI criminal base fine (Mandatory & Non-Mandatory)
- Base civil penalty
- \$20 Probation Assessment (12-114.01)
- 68% Consolidated Surcharge on Mandatory criminal base fine, including DUI (12-116.01 and 12-116.02)
- \$50 Address Confidentiality Assessment (12-116.05)
- \$4 Peace Officer Training Equipment Assessment (12-116.10)

On the request of the defendant, the court may allow the defendant to perform **Community Restitution** (13-824 and 28-1604) in lieu of payment for most monetary obligations, **EXCEPT**:

- Victim Restitution (13-603, 13-804)
- \$50 Address Confidentiality Assessment (12-116.05)
- \$50 Family Offenses Assessment (12-116.06)
- Dangerous Crime Against Children and Sexual Assault Assessment (12-116.07)
- \$9 Victim Assessment on criminal charges (12-116.08)
- \$2 Victim Assessment on criminal charges (12-116.09)
- \$20 Time Payment Fee in Civil Traffic Cases (12-116A)
- 10% Clean Election Surcharge on criminal charges (16-954A)

	Criminal Offense		Civil Traffic Violations	
	Mitigation?	Community Restitution?	Mitigation?	Community Restitution?
Victim Restitution	N	N	N	N
Base civil penalty			Y (28-1603A)	Y (28-1604A)
Non-DUI criminal base fine	Y (13-825A)	Y (13-824A)		
DUI base fine	N (13-825A)	Y (13-824A)		
68% Consolidated Surcharge on <i>Mandatory</i> criminal base fine, including DUI (12-116.01 and 12.116.02)	Y (13-825C)	Y (13-824A)		
68% Consolidated Surcharge <i>on Non-Mandatory Non-DUI</i> base fine or Civil Penalty (12-116.01 and 12.116.02)	N (13-825C) (But mitigates by operation if base fine is mitigated)	Y (13-824A)	N (28-1603) (But mitigates by operation if base fine is mitigated)	Y (28-1604A)
10% CEF Surcharge on mandatory DUI base fine (16-954A)	N (13-825A) (Does not mitigate by operation because base fine cannot be mitigated)	N (13-824B)		
10% CEF Surcharge (16-954A)	N (13-825A) (But mitigates by operation if base fine is mitigated)	N (13-824B)	N (28-1603C) (But mitigates by operation if civil penalty is mitigated)	Y (28-1604A)
Diversion/DDS Surcharge (12-114)	N (13-825A) (Neither 12-114 nor 13-825 provide authority to mitigate this surcharge)	Y (13-824A)	N (28-1603A) (Neither 12-114 nor 28-1603 provide authority to mitigate this surcharge)	Y (28-1604A)
\$13 Additional Assessment (12-116.04)	N (13-825A) (Neither 12-116.04 nor 13-825 provide authority to mitigate assessment)	Y (13-824A)	N (28-1603A) (Neither 12-116.04 nor 28-1603 provide authority to mitigate assessment)	Y (28-1604A)
\$9 Victim Assessment (12-116.08)	N (13-825A) (Neither 12-116.08 nor 13-825 provide authority to mitigate assessment)	N (13-824B)	N (28-1603A) (Neither 12-116.08 nor 28-1603 provide authority to mitigate assessment)	Y (28-1604A)
\$2 Victim Assessment (12-116.09)	N (13-825A) (Neither 12-116.09 nor 13-825 provide authority to mitigate assessment)	N(13-824B)	N (28-1603A) (Neither 12-116.09 nor 28-1603 provide authority to mitigate assessment)	Y (28-1604A)
\$4 Peace Officer Training Equipment Assessment (12-116.10)	Y (12-116.10D)	Y (13-824A)	Y (12-116.10D)	Y (28-1604A)
\$20 Probation Assessment (12-114.01)	Y (12-114.01C)	Y (13-824A)	Y (12-114.01C)	Y (28-1604A)
\$20 Time Payment Fee (12-116)	N (12-116A)	Y (13-824A)	N (12-116A)	N (28-1604B)
\$50 Address Confidentiality Assessment (12-116.05)	Y (12-116.05A)	N (13-824B)		
\$50 Family Offenses Assessment (12-116.06)	N (13-825A) (Neither 12-116.06 nor 13-825 provide authority to mitigate assessment)	N(13-824B)		
\$500 Dangerous Crime against Children, Sexual Assault Assessment (12-116.07)	N (12-116.07) (Neither 12-116.07 nor 13-825 provide authority to mitigate assessment)	N(13-824B)		
\$1000 Drag Racing Assessment (12-116.11)	N (13-825A) (Neither 12-116.11 nor 13-825 provide authority to mitigate assessment)	Y (ARS 13-824A)		
Prison Construction Fund Assessment DUI - 1st 28-1381(I4), 2nd 28-1381(K5) Extreme - 1st 28-1382(D6), 2nd 28-1382(E6) Aggravated [DUI 3rd] - 28-1383(J4) Super Extreme. - 1st 28-1382(D6) 2nd 28-1382(E6)	N (13-825A)	Y (ARS 13-824A)		
Public Safety Equipment Fund Assessment DUI - 1st 28-1381(I5), 2nd 28-1381(K6) Extreme - 1st 28-1382(D7), 2nd 28-1382(E7) Aggravated [DUI 3rd] - 28-1383(J5) Super Extreme. - 1st 28-1382(D7), 2nd 28-1382(E7)	N (13-825A)	Y (ARS 13-824A)		
DUI Abatement Fund Assessment (Extreme - 1st 28-1382(D3), 2nd 28-1382(E3) Aggravated [DUI 3rd] - 28-1383(J2) Super Extreme - 1st 28-1382(D3), 2nd 28-1382(E3)	N (13-825A)	Y (ARS 13-824A)		